REMARKS

As an initial matter, Applicants appreciate the Examiner's reconsideration and withdrawal of the rejection of claims 38-40, 43, 51, 63, 64, 66, 68, and 71 under 35 U.S.C. § 112, second paragraph, included in the Office Action of May 3, 2007. As outlined in more detail herein, Applicants respectfully request reconsideration of the remaining rejection of claims 65, 69, and 72 under 35 U.S.C. § 112, second paragraph.

I. Response to Restriction Requirement

The Examiner is apparently uncertain as to the claims elected in Applicants' response filed August 3, 2007. In particular, the Examiner indicates that since Applicants did not identify the non-elected claims as being "withdrawn," the "examiner is unclear about this response." Office Action at 2. Further, apparently because Applicants elected Group I, claims 38-50 and 71-74 without traverse, amended non-elected claims 51, 52, 63, 64, 66, and 68-70, and requested allowance of claims 38-74, the Examiner is uncertain as to which claims Applicants elected. Id. The Examiner apparently believes that amending non-elected claims and requesting allowance of the non-elected, amended claims is necessarily inconsistent with the election of other claims.

Applicants respectfully note that these actions are not inconsistent. Applicants did not identify the non-elected claims as being "withdrawn" because an applicant does not declare non-elected claims withdrawn from consideration. Rather, the Examiner may withdraw non-elected claims from further consideration on the merits. See M.P.E.P. § 821 (indicating the an Examiner may withdraw any non-elected claims

according to §§ 821.01-821.04 (emphasis added)). Thus, until an Examiner has withdrawn the claims, the status of the claims should not be indicated as being "withdrawn." Further, Applicants amended claims 51, 52, 63, 64, 66, and 68-70 in a manner consistent with the amendments made to the elected claims, such that in the event the Examiner reconsiders the restriction requirement and chooses to examine the non-elected claims, those claims will not receive the same claim rejections as the elected claims received in the Office Action of May 3, 2007. For at least the above-outlined reasons, Applicants' election without traverse of Group I, claims 38-50 and 71-74 included in the Reply to Office Action filed August 3, 2007, is in compliance with M.P.E.P. § 818.

In a restatement of the restriction requirement issued in the Office Action of May 3, 2007, the Examiner has again required an election under 35 U.S.C. § 121 of one of the following two groups of claims:

> Group I, claims 38-50 and 71-74, allegedly directed to "a method for monitoring a tyre during running"; and
>
> Group II, claims 51-67 and 68-70, allegedly directed to "a tyre or a wheel on a vehicle."

Office Action at 3-4.

Applicants restate the election of August 3, 2007, and provisionally elect Group I, claims 38-50 and 71-74, without traverse.

II. Claim Rejection under 35 U.S.C. § 112, Second Paragraph

Claims 65, 69, and 72 were rejected under 35 U.S.C. § 112, second paragraph, because the recitations of "an elaboration unit," as recited in claims 65 and 69, and the recitation of "a critical condition" and "a counteraction," as recited in claim 72, are allegedly indefinite. Office Action at 3. Applicants continue to respectfully traverse the claim rejection under § 112, second paragraph, at least because a person having ordinary skill in the art would understand the metes and bounds of these recitations.

According to the guidance of the M.P.E.P., the issue of whether a claim particularly points out and distinctly defines the metes and bounds of the subject matter recited is determined under § 112, second paragraph, based on "whether the scope of the claim is clear to a hypothetical person possessing the ordinary level of skill in the pertinent art." § 2171. Furthermore, the M.P.E.P. advises that "[d]efiniteness of claim language must be analyzed, not in a vacuum, but in light of:

(A) The content of the particular application disclosure;

(B) The teachings of the prior art; and

(C) The claim interpretation that would be given by one possessing the ordinary level of skill in the pertinent art at the time the invention was made.

§ 2173.01.

With respect to the rejection of claims 65 and 69, the Examiner asserts that reciting "an elaboration unit" is "vague . . . since many factors in a vehicle are necessary (i.e., can be considered as an elaboration unit) in a vehicle . . . ." Office Action at 3. Applicants respectfully submit that the Examiner has misinterpreted claim breadth as

vagueness, and it is improper to reject a claim under 35 U.S.C. § 112, second paragraph, based on an allegation of a claim being too broad. See M.P.E.P. § 2173.04 (advising that "[b]readth of a claim is not to be equated with indefiniteness."). Further, Applicants' disclosure provides at least one example of an "elaboration unit." In particular, at page 11, lines 16-27, the application discloses an exemplary "elaboration unit," as follows:

> The elaboration unit may comprise, for example, a programmed microprocessor having a volatile storage element, a permanent storage element and a CPU. The elaboration unit receives the acceleration signals and performs the elaborations needed in order to identify, from said signals, what kind of manoeuvre (e.g. braking, acceleration, cornering, etc.) is being performed by the tyre or by the vehicle. Furthermore, it can also derive if a critical condition is being reached by the tyre or by the vehicle during such manoeuvre (for example due to aquaplaning). In such case, a signal can be generated, to cause a counter-action to control the vehicle, e.g. by the driver or by auto-control systems of the vehicle.

Thus, the application provides examples of an "elaboration unit," and a person having ordinary skill in the art would understand the metes and bounds of an "elaboration unit." For at least this reason, claims 65 and 69 comply with 35 U.S.C. § 112, second

paragraph. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 65 and 69 under § 112, second paragraph.

Concerning the rejection of claim 72 under § 112, second paragraph, the Examiner asserts that "[c]laim 72 mentions 'a critical condition is being reached', and 'to cause a counteraction to control the vehicle'," and further, that those recitations "are vague because they are not defined in the disclosure." Office Action at 3.

Applicants respectfully submit that a person having ordinary skill in the art would understand the metes and bounds of these recitations in claim 72. For example, at page 11, lines 24-27, the application discloses that the elaboration unit can determine "if a critical condition is being reached by the tyre or by the vehicle during [braking, accelerating, cornering, etc.] (for example, due to aquaplaning)," and further, that "[i]n such case, a signal can be generated, to cause a counteraction to control the vehicle, e.g. by the driver or by auto-control systems of the vehicle." Based on this exemplary disclosure, a person having ordinary skill in the art would understand that "a critical condition" could relate to, for example, one or more tyres rotating slower than another tyre, one or more tyres having less air pressure than another, and/or one or more tyres having a greater contact length than another tyre. Further, a person having ordinary skill in the art would understand that "a counteraction" could relate to, for example, activating a warning light and/or warning buzzer to indicate to a driver that some type of vehicle control action (e.g., applying the brakes and/or changing the steering input) might be recommended. In addition, a person having ordinary skill in the art would understand that "a counteraction" could additionally (or alternatively) relate to, for

example, the vehicle activating an anti-lock braking system, reducing engine throttle input, and/or changing vehicle steering input.

For at least these reasons, a person having ordinary skill in the art would understand the metes and bounds of claim 72. Therefore, Applicants respectfully request reconsideration and withdrawal of the rejection of claims 65, 69, and 72 under § 112, second paragraph.

III. Conclusion

Applicants respectfully submit that elected claims 38-50 and 71-74 are in condition for allowance. Moreover, Applicants respectfully request that if the Examiner issues another Office Action, including a claim rejection based on prior art, that the Examiner designate the Office Action non-final, since it would be improper to designate such an Office Action final at least because Applicants will not have been provided with a fair opportunity to respond to a claim rejection based on prior art

Applicants respectfully request reconsideration of this application, withdrawal of the claim rejection, and allowance of claims 38-50 and 71-74. Further, Applicants respectfully request rejoinder, examination, and allowance of non-elected claims 51-70 (i.e., if the Examiner at least initially withdraws them from consideration on the merits).

If the Examiner believes that a telephone conversation might advance prosecution of this application, the Examiner is cordially invited to call Applicants' undersigned attorney at (404) 653-6559.

Applicants respectfully submit that the Office Action contains a number of assertions concerning the claims. Regardless of whether those assertions are

addressed specifically herein, Applicants respectfully decline to automatically subscribe to them.

Please grant any extensions of time required to enter this Reply and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

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Dated: January 24, 2008

By: _____
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